



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 13, 1996

Ms. Maria Salinas Parker
Coats, Rose, Yale, Holm, Ryman & Lee
800 First City Tower
1001 Fanin
Houston, Texas 77002-6707

OR96-0949

Dear Ms. Parker:

You seek reconsideration and clarification of Open Records Letter No. 96-0369 (1996), in which this office reconsidered and clarified a prior opinion, Open Records Letter No. 95-1254 (1995). At issue in this opinion and in the two opinions previously issued by this office is whether the Harris County Water Control and Improvement District No. 110 of Harris County, Texas (the "district"), which you represent, must release a list of members of the womens tennis league. Although this office has twice concluded that this information is public information that must be disclosed under chapter 552 of the Government Code, you once again ask this office for reconsideration of our prior opinions. We have assigned your most recent request for reconsideration and clarification ID# 39859.

You ask whether the list of members is excepted from public disclosure pursuant to article 1446h, V.T.C.S. Article 1446h, V.T.H.S. provides that certain personal information of a customer of a government-operated utility may be confidential under certain circumstances. Section 1(1) of article 1446h, V.T.H.S. defines government-operated utility as an entity that is a governmental body or that is governed by a governmental body, and that provides water, wastewater, sewer, gas, garbage, electricity, or drainage services for compensation. Section 2 provides that "a government-operated utility may not disclose personal information *in a customer's account records* if the customer requests that the government-operated utility keep the information confidential." (Emphasis added.) The handwritten list of members in the women's tennis league that you submitted is not a part of the district's "customer account records" for the provision of water, wastewater, sewer, gas, garbage, electricity, or drainage services. Thus, article 1446h is inapplicable in the situation at hand.

Although you have provided this office with a handwritten list of the names, addresses, and phone numbers of members of the womens tennis league, you state that the list was compiled in response to the requestor's request for this information. You argue that you do not have to produce the list because a governmental body is not required to prepare new information in response to a request for information. We agree that a governmental body is not required to create new information in response to a request for information. *See A & T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 676 (Tex. 1995), Open Records Decision No. 605 (1992) at 2. This office has held, however, that a governmental body has a good faith duty to match a request for information to information that it possesses. Open Records Decision No. 561 (1990). Additionally, this office has held that a governmental body is not required to extract or compile information from documents when it could make the documents available. Open Records Decision Nos. 353 (1982) at 2, 87 (1975) at 5. Thus, although the district would not have been required to specifically compile the requested information, it is required to make available to the requestor any public documents that existed at the time the request was received that contained the requested information. We note, however, that a governmental body clearly is not prohibited from compiling information in response to a request for information.¹ Because the district created this list and now clearly maintains it as public information, *see* Gov't Code § 552.002, the district is free to provide this information to the requestor. If the district refuses to provide to the requestor the handwritten list which the district submitted to this office, the requestor may simply submit a new request for this list, which is public information and may not be withheld under chapter 552 of the Government Code.

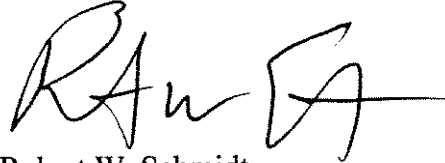
We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous

¹In fact, section 552.001(b) of the Government Code specifically provides that chapter 552 "*shall be liberally construed in favor of granting a request for information.*" (Emphasis added.) Section 552.001(a) provides:

Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.

determination regarding any other records. Please note that this office has thoroughly reviewed all of your arguments for withholding the requested information and consider this matter closed.

Yours very truly,

A handwritten signature in black ink, appearing to read 'RWS' followed by a stylized flourish.

Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/rho

Ref.: ID# 39859

Enclosure: Submitted document

cc: Mr. Art C. Browning
19502 Enchanted Oaks Drive
Spring, Texas 77388
(w/o enclosure)